

B 104 (FORM 104) (08/07)

**ADVERSARY PROCEEDING COVER SHEET**  
(Instructions on Reverse)

**ADVERSARY PROCEEDING NUMBER**  
(Court Use Only)

**PLAINTIFF(S)**

Gary Wayne Bruce and Carol Lynn Bruce

**DEFENDANT(S)**

Purronics Retail Services, Inc.

ATTORNEYS (Firm Name, Address, and Telephone No.)

**Leonard & Moore, PLLC**  
274 Merrimon Avenue  
Asheville NC 28801  
828/255-0456

ATTORNEYS (If Known)

**PARTY (Check one box only)**

☒ Debtor ☐ U.S. Trustee/Bankruptcy Admin  
☐ Creditor ☐ Other  
☐ Trustee

**PARTY (Check one box only)**

☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin  
☒ Creditor ☐ Other  
☐ Trustee

**CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)**

**Avoid judgment lien.**

**NATURE OF SUIT**

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

**FRBP 7001(1) - Recovery of Money/Property**

- ☐ 11 - Recovery of Money/Property - §542 turnover of property
- ☐ 12 - Recovery of Money/Property - §547 preference
- ☐ 13 - Recovery of Money/Property - §548 fraudulent transfer
- ☐ 14 - Recovery of Money/Property - other

**FRBP 7001(2) - Validity, Priority or Extent of Lien**

- ☒ 21 - Validity, priority or extent of lien or other interest in property

**FRBP 7001(3) - Approval of Sale of Property**

- ☐ 31 - Approval of sale of property of estate and of a co-owner - §363(h)

**FRBP 7001(4) - Objection/Revocation of Discharge**

- ☐ 41 - Objection/revocation of discharge - §727(c),(d),(e)

**FRBP 7001(5) - Revocation of Confirmation**

- ☐ 51 - Revocation of confirmation

**FRBP 7001(6) - Dischargeability**

- ☐ 66 - Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62 - Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67 - Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(Continued next column)

**FRBP 7001(6) - Dischargeability (continued)**

- ☐ 61 - Dischargeability - §523(a)(5), domestic support
- ☐ 68 - Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63 - Dischargeability - §523(a)(8), student loan
- ☐ 64 - Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65 - Dischargeability - other

**FRBP 7001(7) - Injunctive Relief**

- ☐ 71 - Injunctive relief - imposition of stay
- ☐ 72 - Injunctive relief - other

**FRBP 7001(8) Subordination of Claim or Interest**

- ☐ 81 - Subordination of claim or interest

**FRBP 7001(9) Declaratory Judgment**

- ☐ 91 - Declaratory judgment

**FRBP 7001(10) Determination of Removed Action**

- ☐ 01 - Determination of removed claim or cause

**Other**

- ☐ SS-SIPA Case - 15 U.S.C. §§78aaa *et seq.*

- ☐ 02 - Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

- ☐ Check if this case involves a substantive issue of state law
- ☐ Check if a jury trial is demanded in complaint

- ☐ Check if this is asserted to be a class action under FRCP 23 Demand \$

Other Relief Sought:

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<b>BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES</b>			
NAME OF DEBTOR(S) <b>Gary Wayne Bruce and Carol Lynn Bruce</b>		BANKRUPTCY CASE NO. <b>11-20201</b>	
DISTRICT IN WHICH CASE IS PENDING <b>WESTERN DISTRICT OF NC</b>		DIVISIONAL OFFICE <b>BRYSON CITY</b>	NAME OF JUDGE <b>GEORGE R. HODGES</b>
<b>RELATED ADVERSARY PROCEEDING (IF ANY)</b>			
PLAINTIFF	DEFENDANT		ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING		DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)  /s/ T. Bentley Leonard			
DATE  <b>November 1, 2011</b>		PRINT NAME OF ATTORNEY (OR PLAINTIFF)  T. Bentley Leonard	

**INSTRUCTIONS**

The filing of a bankruptcy case created an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE/BRYSON CITY DIVISIONS**

IN RE:	)	Case No.: 11-20201
	)	Chapter 7
Gary Wayne Bruce and	)	
Carol Lynn Bruce	)	
	)	
Debtor(s).	)	
	)	
Gary Wayne Bruce and	)	<b>COMPLAINT TO AVOID LIEN PURSUANT</b>
Carol Lynn Bruce,	)	<b>TO 11 U.S.C. §506(d), §522(f) and FRBP 7001</b>
	)	
Plaintiff(s),	)	
	)	
vs.	)	
	)	
Purronics Retail Services, Inc.,	)	
	)	
Defendant.	)	

NOW COMES the Debtor(s)/Plaintiff(s), in the above-captioned proceeding pursuant to 11 U.S.C. §506(d), 522(f) and Rule 7001 of the Federal Rules of Bankruptcy Procedure, through counsel, who allege(s) and say(s) as follows:

1. The Plaintiffs are individuals residing in Cherokee County in the Western District of North Carolina.
2. That the Plaintiffs filed a Chapter 7 proceeding on October 10, 2011, listing Purronics Retail Services, Inc. (Purronics) in the Petition Schedules as a creditor. Purronics obtained a judgment, Case Number 09 CVD 599, Cherokee County, NC, in the amount of \$20,795.95 plus interest. The judgment was entered on March 2, 2010.
3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §157(a),(b)(1) and (2) and subparagraph (I).
4. The Plaintiffs own real property at 308 Dotson Road, Murphy NC 28906, in Cherokee County, North Carolina, which is their residence. The Deed conveying said property to the Plaintiffs is recorded at Book 1165, Page 764, Cherokee County, NC Registry. The property was listed in the Petition Schedules with a value of approximately \$114,000.00. There is a first mortgage on the property held by United Community Bank with a balance of approximately \$55,000.00 and a second mortgage held by United Community Bank with a balance of approximately \$44,767.00.

5. The Debtors are entitled to a residential exemption of up to \$70,000.00. The judgment lien of Puronics impairs the Debtors' residential exemption.

6. That being paid in full with interest as a secured creditor would put Puronics in a better position than the other unsecured creditors in the case.

WHEREFORE, THE DEBTOR(S) MOVE(S) AS FOLLOWS:

1. That the debt to Puronics be treated as unsecured during the pendency of the Chapter 7 proceeding and that the debt and the judgment be declared null and void when the Debtors receive a Discharge.

2. That upon the granting of a Discharge to the Debtors, Puronics Retail Services Inc., be required to cancel the judgment of record or, in the alternative, that the Clerk of Superior Court for Cherokee County be allowed, directed and authorized to cancel the judgment on the basis of the Order entered in this matter.

This the 1<sup>st</sup> day of November, 2011.

/s/ T. Bentley Leonard  
T. Bentley Leonard, NC Bar #5717  
Attorney for the Plaintiffs  
LEONARD & MOORE, PLLC  
274 Merrimon Avenue  
Asheville NC 28801  
(828) 255-0456